# Recommendations to Improve Inpatient and Outpatient Civil Commitment in Georgia

**Georgia Behavioral Health Reform & Innovation Commission**
**October 29, 2020**

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# TAC Recommendations

- Outpatient Commitment: Establish a statewide grant program at DBHDD to an promote the "Assisted Outpatient Treatment" (AOT) model.
- Inpatient Commitment: Make 3 legislative changes to facilitate earlier intervention for individuals in psychiatric crisis.

# Outpatient Commitment

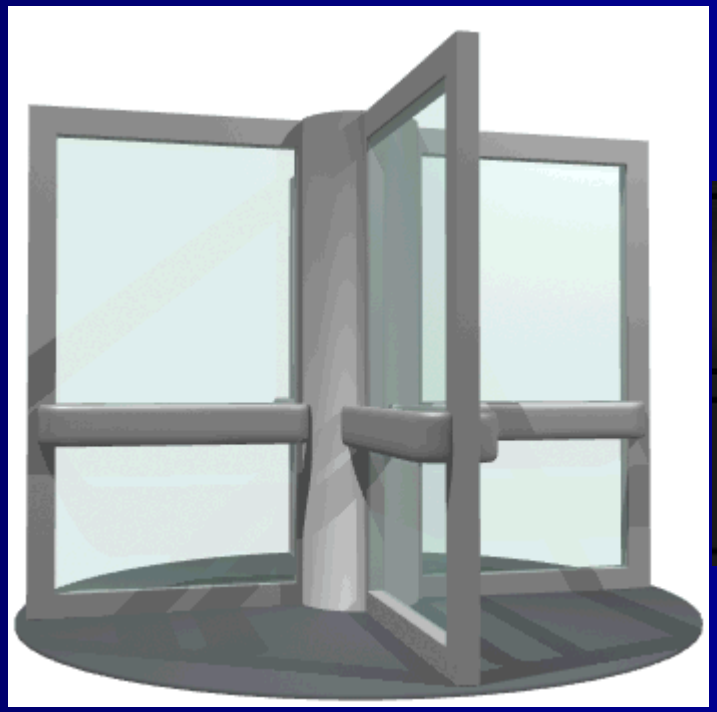
- Establish a statewide grant program at DBHDD to an promote the "Assisted Outpatient Treatment" (AOT) model.

# Public Mental Health: Many Needs, No Single "Cure-All"

- More investment in community-based care (mobile crisis teams, crisis respite, et. al.)
- Inpatient psychiatric beds
- Recruit mental health professionals to underserved regions
- New law-enforcement / diversion strategies
- **Address treatment non-engagement**

# Treatment Non-Engagement

Too many with SMI caught in the "revolving doors" of the mental health and criminal justice systems



# Many reasons for non-engagement

- Inadequate community-based support
- Health insurance gaps
- Distance to provider / lack of transportation
- Substance abuse
- Side effects of medications
- Challenges with executive functioning
- Mistrust of doctors
- **Anosognosia / lack of insight**

# A most challenging cause of non-engagement:

a symptom of brain dysfunction known as ...

# ANOSOGNOSIA

# Anosognosia

- Lack of insight into one's own illness. (inability to recognize illness in self)
- NOT denial
- Brain-based.  Out of the individual's control
- Makes non-adherence *logical*

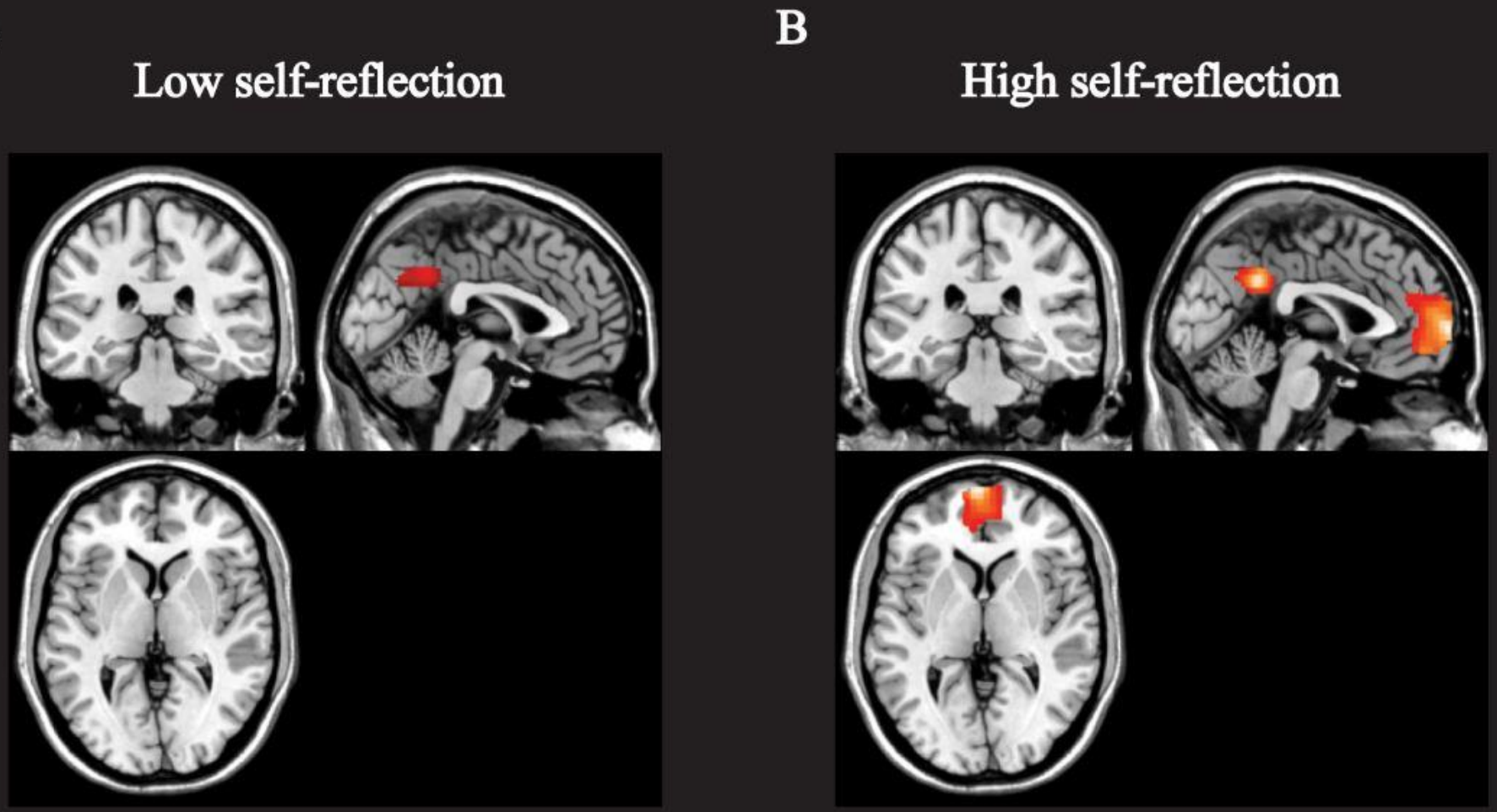



Figure 2. Brain activation of selected individuals is displayed (the patterns of activation are consistent with the group-level differences). Differences in brain activation in the left and right vMPFC during a self reflection task between two patients with schizophrenia, one patient with impaired insight and one patient with good insight. (A) a patient with a low score (7) on the subscale self reflectiveness of the Beck Cognitive Insight Scale (BCIS) and (B) a patient with a high score (27) on the subscale self-reflectiveness.

# Linking Anosognosia and Non-Adherence

Psych. Services 2/06:

- Of 300 patients with non-adherence tracked, 32% found to lack insight.
- Those 32% had significantly longer non-adherent episodes, more likely to completely cease meds, have severe symptoms, be hospitalized

# Bottom Line on Anosognosia

- If you build it …

… SOME still won't come!

# "Assisted Outpatient Treatment" (AOT) is …

- A clinical/legal strategy to overcome an individual's inclination to disengage from treatment
- A form of civil commitment. Court-ordered outpatient care
- A means of leveraging the power of courts to influence behavior

# AOT:
# More Than Just a Court Order!

Many Georgia counties already practice outpatient commitment. What's missing?

- "Problem-solving court" approach
- Focus on "revolving door" patients
- Intensive monitoring of participants
- Court oversight of both sides' adherence
- Systematic response to non-adherence

# Why Does the Court Order Matter?

- Under AOT, the court order lacks "teeth":
  - No contempt of court
  - No automatic return to inpatient commitment
  - No forcibly administered meds
- Fair to ask: what's the point?

# Point #1:
# "The Black Robe Effect"

- Judges naturally command respect as symbols of authority in our civic culture.
- Many AOT judges embrace the role of participant motivator.
- The black robe effect works on the treatment system too.

# Point #2:
## Rapid Response to Non-Adherence

Lack of punishment for non-adherence doesn't mean lack of *consequence*

# AOT is *not* just for those presently refusing treatment

- Legal criteria allow programs to choose patients based on history and fragility of condition, not immediate state of mind.
- Most natural point to start AOT is upon hospital discharge of a stabilized patient
- Starting AOT with positive outlook is *optimal.*
- "Voluntary" settlement agreements are fine, but …

# Judicial involvement in *every* case

- Any settlement agreement should require court approval, ideally with stipulated court order.
- Lack of need for a contested hearing is no reason to deny patient the benefits of interacting with the judge.

# Lessons from the Field

## Kendra's Law

Final Report on the Status of

**Assisted Outpatient Treatment**

**New York State**
**George E. Pataki,**
**Governor**

**Office of Mental Health**
**Sharon E. Carpinello, R.N., Ph.D.,**
**Commissioner**
**March 2005**

## New York State Assisted Outpatient Treatment Program Evaluation

**Submitted under Contract with the New York State Office of Mental Health**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June 30, 2009

# AOT Works

2009 NY study results (Duke et. al.):

- Likelihood of hospital admission over 6-month period cut in half (74% to 36%)
- "Substantial reductions" in hosp days
- Likelihood of arrest over 1-month period cut in half (3.7% to 1.9%)
- AOT group 4x less likely to commit serious violence than non-eligible control group, despite more violent histories

# The Court Order Matters

Comparison of AOT patients to AOT-eligible "voluntaries," with equal quality of services, found:

- "Highly statistically significant" difference in the likelihood of a hospital admission over six months (36% vs. 58%).
- AOT patients less likely to be arrested than "voluntaries" (1.9% per month vs. 2.8%)
- AOT patients had substantially higher level of personal engagement in their treatment (55% "good" or "excellent" vs. 43%).

# The Court Order Matters

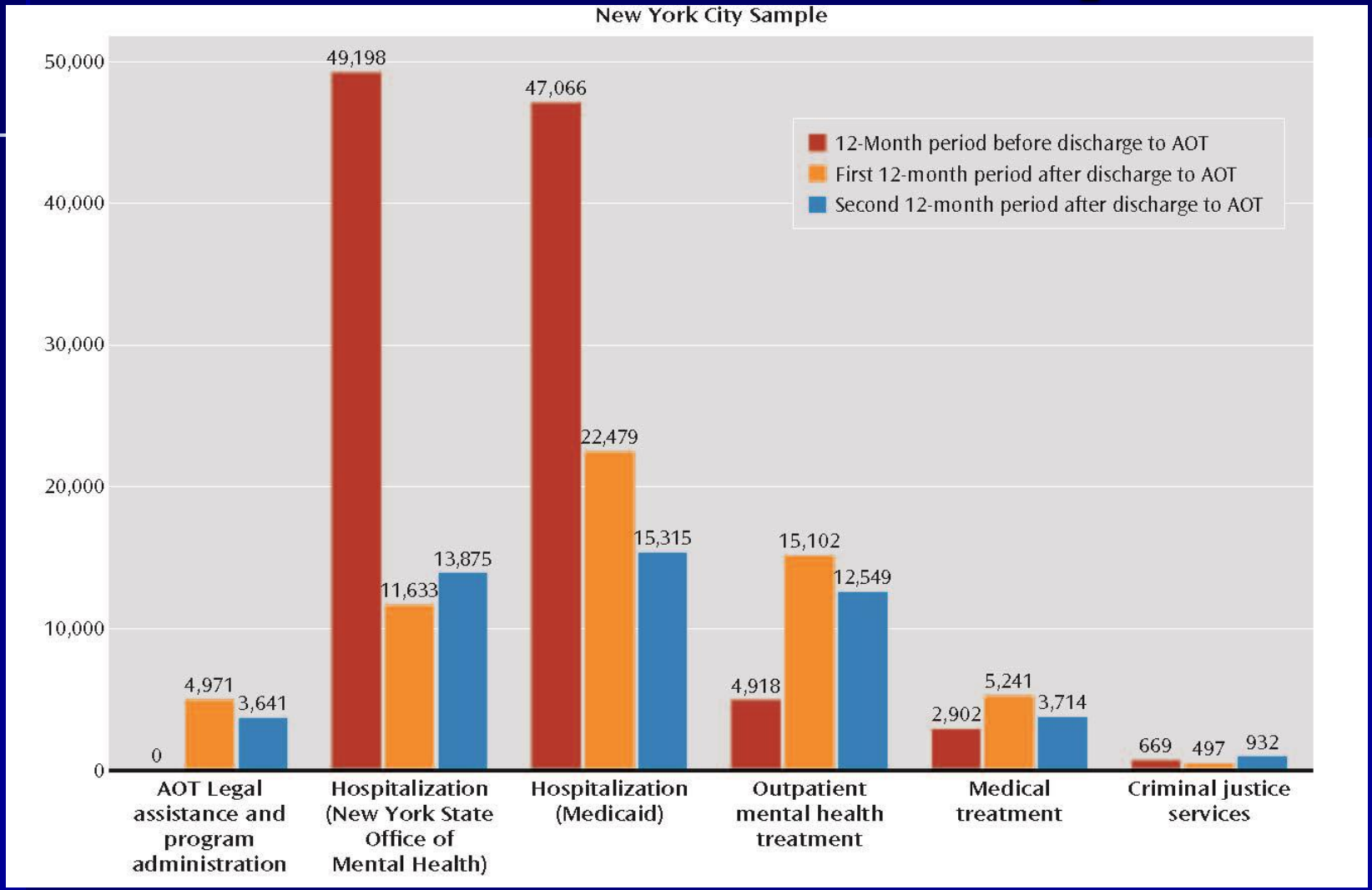
NY research conclusion:

- "The increased services available under [AOT] clearly improve recipient outcomes. However, the [AOT] court order, itself, and its monitoring do appear to offer additional benefits in improving outcomes."

# NY Research Finding: Respectful Treatment Is Key

- AOT recipients no more likely to feel coerced by mental health system than others in the public mental health system.
- AOT recipients report no greater sense of discrimination.
- Among all, the best predictor of feelings of coercion/stigma was perceived disrespect in interactions with treatment professionals.

# AOT Saves Money!




In NYC, net treatment costs declined 43% Y1, another 13% in Y2.

NREPP SAMHSA's National Registry of Evidence-based Programs and Practices

# Assisted Outpatient Treatment (AOT)

Assisted outpatient treatment (AOT) is the practice of delivering outpatient treatment under court order to adults with severe mental illness who are found by a judge, in consideration of prior history, to be unlikely to adhere to prescribed treatment on a voluntary basis. AOT is a form of civil commitment intended for those who suffer from anosognosia (lack of insight) in addition to severe mental illness, and have been repeatedly hospitalized or arrested as a consequence of treatment nonadherence. Through the ritual of a court hearing and the symbolic weight of a judge's order, AOT seeks to leverage a "black robe effect," motivating the individual to regard treatment adherence as a legal obligation and impressing upon treatment providers that the individual requires close monitoring and comprehensive services.

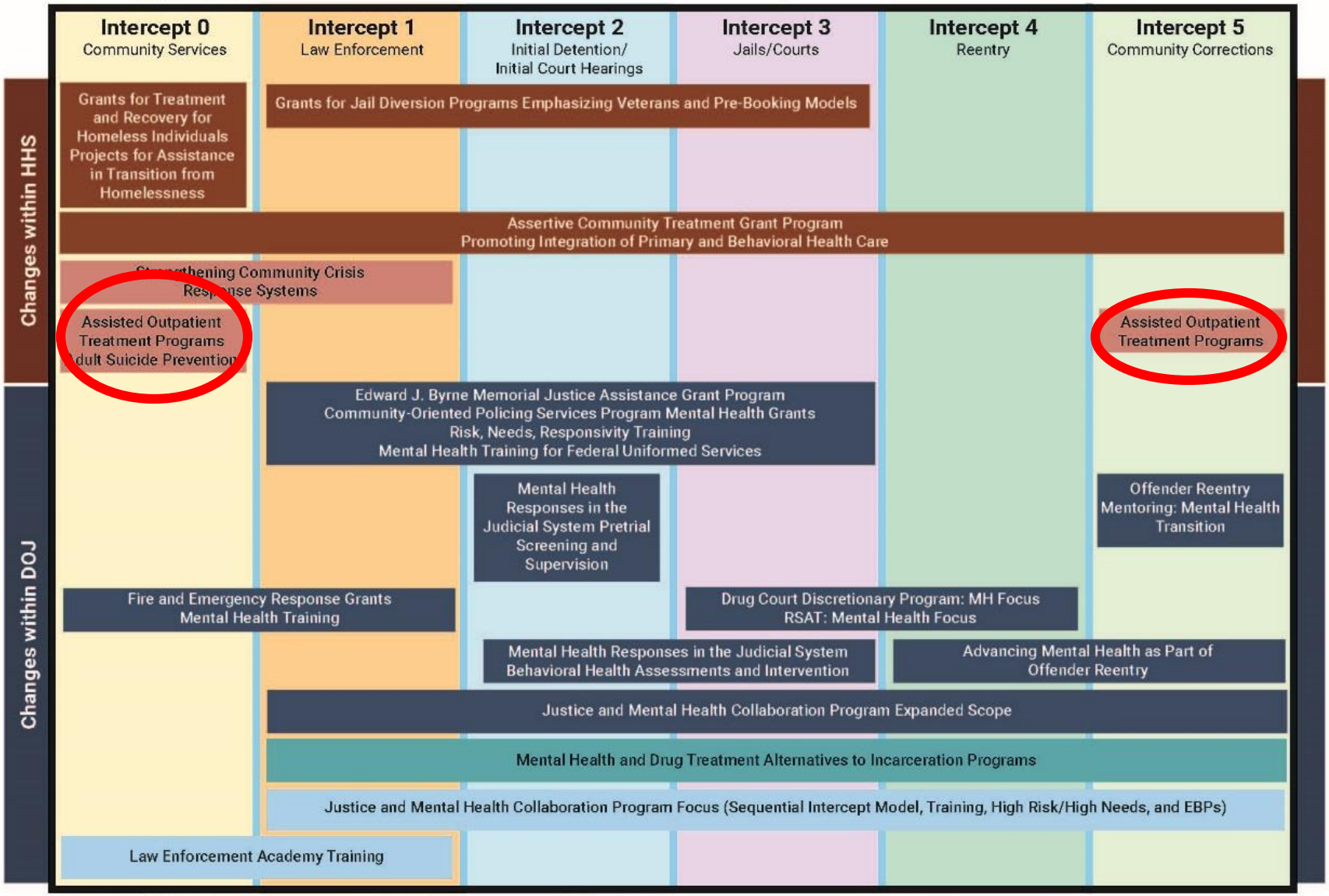
Forty-five states and the District of Columbia currently have laws authorizing AOT and dictating the specific legal process. Although the requirements for implementing AOT on the local level will vary with the specifics of each state law, implementation generally requires collaboration among local mental health authorities, treatment providers, and the court with jurisdiction over civil commitments.

## Descriptive Information

| | |
|---|---|
| **Areas of Interest** | Mental health treatment |
| **Outcomes** | **Review Date: February 2015**<br>1: Assault or threat of violent behavior<br>2: Hospitalization<br>3: Quality of life<br>4: Suicide risk |

SAMHSA'S GAINS Center for Behavioral Health and Justice Transformation

# The 21st Century Cures Act & the Sequential Intercept Model



# The 2016 Game-Changer: Federal Grant Money for New AOT Programs!

Substance Abuse and Mental Health Services Administration
SAMHSA

- 36 grants awarded since 2016
- 4 years of support, up to $1M/yr., with expectation that programs will be sustained
- Currently in transition from first class of grantees to new

# Recommendation: Fund AOT in Georgia

- Fund a grant program to be administered by DBHDD, for counties to receive multi-year funding to implement the AOT model.
- Grants to be awarded competitively to county mental health systems and courts who demonstrate their understanding of and readiness to implement AOT.
- Goal: Create model programs whose success in improving outcomes and saving money will build momentum for statewide implementation.

# Inpatient Commitment

- Make 3 legislative changes to facilitate earlier intervention for individuals in psychiatric crisis.

# Recommendation # 1

- Remove the requirement that a tragic outcome be "imminent" before an individual in crisis can qualify for inpatient commitment.

# O.C.G.A. § 37-3-1

**(9.1)** "Inpatient" means a person who is mentally ill and:

**(A)**

**(i)** Who presents a substantial risk of **imminent** harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

**(ii)** Who is so unable to care for that person's own physical health and safety as to create an **imminently** life-endangering crisis; and

**(B)** Who is in need of involuntary inpatient treatment.

# Requiring "imminence" has tragic consequences

- Postpones intervention until the verge of calamity, even when its inevitability is apparent. The waiting invites victimization.
- Delays urgently needed treatment, forfeiting opportunity to treat most effectively. Time is a luxury we don't have.

# Legislative Fix
# O.C.G.A. § 37-3-1

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**(i)** Who presents a substantial risk of [~~imminent~~] harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

**(ii)** Who is so unable to care for that person's own physical health and safety as to create [~~an imminently~~] a reasonable expectation of a life-endangering crisis in the near future; and

(B) Who is in need of involuntary inpatient treatment.

# Recommendation # 2

- **Allow psychiatric deterioration as a basis for inpatient commitment.**

# The Psychiatric Deterioration Standard

- Lack of insight prevents many from recognizing their own need for care.
- Acknowledges that "danger to self" is not limited to risk of external harm. Risk of potentially irreversible harm to brain should matter.
- Why wait for tragedy? 20 states have incorporated risk of psych deterioration as basis for inpatient commitment.

# Legislative Fix
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**(ii)** Who is so unable to care for that person's own physical health and safety as to create [~~an imminently~~] a reasonable expectation of a life-endangering crisis in the near future; or

**(iii)** Who lacks sufficient insight or capacity to make responsible decisions with respect to his treatment; and

(B) Who is in need of involuntary inpatient treatment.

# Recommendation # 3

- **Increase the maximum period for emergency mental health treatment, from 48 to 72 hours.**

# Another 24 Hours Will Save Lives

- A lot must happen during emergency hold period: Evaluation, stabilization efforts, connections to an appropriate level of care.
- A 48-hour limit puts enormous pressure on the system, frequently leading to premature release.
- Research shows that stabilization and care planning reduces risk of post-discharge suicide.

# Legislative Fix
# O.C.G.A. § 37-3-43

**(a)** A patient who is admitted to an emergency receiving facility shall be examined by a physician as soon thereafter as possible but in any event within [~~48~~] 72 hours and may be given such emergency treatment as is indicated by good medical practice. The patient must be discharged within [~~48~~] 72 hours of his admission unless:

**(1)** An examining physician or psychologist concludes that there is reason to believe that the patient may be a mentally ill person requiring involuntary treatment and executes a certificate to that effect within such time; or

**(2)** The patient is under criminal charges, notice of which has been given in writing to the facility, in which case the provisions of Code Section 37-3-95 shall apply.

# TAC is Here to Help


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